Selecting An Asbestos Abatement Contractor

Contractors Interested in Entering the Asbestos Market Should Know the Requirements

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In November 1979 national attention was drawn to the possibility that friable (can be disturbed, crumbled, pulverized, or reduced to powder in the hand) asbestos-containing fireproofing, thermal insulation, and soundproofing in schools might pose a threat to the health of school children. After several Federal studies demonstrated the potential danger inherent in buildings having friable asbestos-containing materials, the United States Environmental Protection Agency (EPA) published guidelines dealing with such materials in schools.

Hundreds of general contractors, painters, roofers, electricians, sealant manufacturers, equipment distributors, and self proclaimed ‘experts’ have entered the field of asbestos abatement.

Most abatement contractors are reputable and knowledgeable of the hazards associated with asbestos-related activity. But a percentage of them have neither the capability nor the desire to deal safely and efficiently with friable asbestos-containing materials in buildings. Some contractors offer a flood of often conflicting and questionable claims concerning their products and/or abilities. Federal and State regulatory agencies, burdened with cuts in both personnel and funding, cannot adequately police each and every abatement situation. When contractors take advantage of this shortfall, the result can be less than safe and responsible work practices.

Failure to select a competent and reputable abatement contractor has led to delays, questionable work practices, and exposure of workers and building occupants to airborne asbestos fibers. Liability for these actions often rests with the building operator. Selecting an abatement contractor does not have to be an involved or traumatic experience, if several ‘common sense’ steps are taken prior to the awarding of contracts.

1. To create and implement a safe and effective abatement program, the client must have an adequate understanding of the scope of the problem. The client must be aware of the nature of asbestos and the potential medical effects of exposure to airborne asbestos fibers. Asbestos is a recognized human carcinogen, and therefore cannot be treated as just another construction material.

Work standards and techniques common to the construction industry are not adequate for asbestos-related activity. Even the current U.S. Department of Labor, Occupational Safety and Health Administration (OSHA) regulations dealing with asbestos allow worker exposure to levels of airborne asbestos fibers that most researchers agree have the potential for causing cancer. As a result, the levels of contractor competency, worker protection, and safeguards required for a safe and efficient abatement experience far exceed those necessary for simply ‘going in and ripping the stuff out’.

Although the cost is relatively high when compared to normal construction activity, competent contractors bidding on the same detailed specification, and realizing that specification requirements will be enforced, will be competitive.

2. Every asbestos abatement project should have an adequate specification
and enforcement of specification requirements.

The importance of an adequate specification, and on-site enforcement of specification requirements cannot be overstated. Adherence to relevant Federal and State regulations is not enough, since they do not adequately define work standards and practices necessary for safe asbestos abatement activity. The only protection a building operator or school board has against unregulated asbestos-related activity is a well-written specification and on-site enforcement. Neither will ensure a problem-free project, but they will encourage contractor compliance to standards necessary for a safe abatement experience.

A model specification is included by the EPA in their *Asbestos Containing Materials in School Buildings: A Guidance Document, Part I*. Use it as a model only. It cannot be applied ‘as is’ to each and every abatement situation. Architects, industrial hygienists, safety managers, and department heads usually have a great deal of experience in writing specifications. Few, however, have the ability to write appropriate asbestos specifications. Assistance can be obtained from Federal and State regulatory personnel.

In addition, school boards and building operators should consult with their legal representatives and insurance carriers for any specification provisions which they might require. Such contact is important, especially if legal action to recoup abatement costs is a consideration. Often State Departments of Education will have standardized abatement provision requirements necessary if they are to contribute to the cost of abatement.

3. **Documentation of previous satisfactory abatement activity should be a prequalification requirement for contractors.**

While it is questionable whether or not prequalification requirements can legally be applied in the case of public abatement specifications, such requirements are becoming increasingly the norm in private abatement situations. Prequalification requirements are used to set minimum standards for contractor experience, capability, and performance. Contractors interested should provide the client with a list of previous asbestos-related projects, and the names and addresses of corresponding contacts. Air monitoring data, along with copies of notification letters and permits from previous abatement projects, should be included in this package.

Clients should take the time to contact a representative number of the contractor’s previous clients. Information concerning adherence to contract specifications, scheduling, contractor attitude, and performance is of great value. However, information regarding the cost of past abatement activity can be misleading. Few abatement situations are exactly the same. Differences in the type of material, asbestos content, location, and scheduling requirements, among other things, have a significant impact on the cost of abatement.

Some contractors only include ‘successful’ projects in their list of previous asbestos abatement activity.
Contact Federal and State regulatory agencies to determine past contractor compliance to regulations dealing with asbestos-related activity. In some states, contractors and personnel engaged in asbestos-related activity must be certified by state agencies. State requirements, therefore, should be determined.

The contractor should be required to provide the client with a notarized statement, signed by an officer of that construction firm, containing the following information:

• A record of any citation’s issued by Federal, State, or local regulatory agencies relating to asbestos abatement activity. (Projects, dates, and resolution included).

• A list of penalties incurred through noncompliance with asbestos abatement project specifications. (Liquidated damages, overruns in scheduled time limitations, and resolution listed).

• Situations in which an asbestos-related contract has been terminated. (Project, date, and reason for termination included.)

Clients should contact the contractor’s bonding and insurance carriers. Some are not even aware that contractors covered by their firms are engaged in asbestos-related activity. Since their carriers bear the burden of poor contractor performance, they are a good source of information.

4. Contractors who qualify to participate in the bid process should be prepared, as part of their bid package, to provide the client with the following information.

a. Description of employee information program re: hazards of asbestos, proper use of protective equipment, knowledge of applicable regulations, work standards and practices.

b. Description of medical surveillance program required under OSHA regulations.

c. Description of respiratory protection program, including medical suitability testing, respirator fit and maintenance procedures.

d. Description of methods to be used to determine the type of respiratory protection necessary during the abatement project. Information concerning certification of respiratory protection equipment (including Type-C supplied air systems) shall be supplied to the client.

e. Explanation of air monitoring procedures to be employed, including the name and qualifications of laboratory and personnel responsible for the actual collection and analysis of samples. (Qualified personnel should be used for both the collection and analysis of samples). Period between the collection of samples and the availability of test results must be defined. (Results should be available as soon as possible after sample collection; several hours should be considered the maximum allowable time. Real-time monitoring devices do not meet current OSHA monitoring requirements ).

f. A realistic sequence of work and construction schedule which includes built-in performance ‘checkpoints’ to aid in monitoring project progress.

g. Delineation of responsibility for
on-site activity. Detail qualifications of all supervisory personnel to be involved in actual on-site activity; such information will be updated during project if new personnel are introduced to project.
h. Delineation of responsibility of work site isolation.
i. Explanation of decontamination sequence and procedures.
j. Explanation of contingency procedures in case of accident or emergency.
Prior to the start of the abatement project, the successful contractor must provide documentation that each member of his work force has received the required testing and instruction.
k. Description of all removal/encapsulation/enclosure procedures to be employed, including specifications and documentation pertaining to the asbestos abatement equipment (HEPA filter equipped vacuums, vacuum systems, negative pressure equipment, etc.).
l. Description of proposed sealant material (if encapsulation is a part of the abatement program). Use of any sealant should not take place until a small test area is encapsulated to demonstrate the suitability of encapsulation as an abatement alternative, and to test the performance of a specific product(s) for that situation.
m. Explanation of procedures to deal with any extraordinary project requirements, such as protection of building equipment and/or structure from water or humidity damage, etc.
n. Description of final clean-up procedures to be used.
o. Description of procedures and arrangements for disposal of asbestos-containing waste material in compliance with Federal, State, and local regulations.

Once the information described in sections 3 and 4 has been collected, it should be carefully evaluated by the client and/or qualified consultant. Information such as air monitoring data is of great value, but only if properly interpreted. Information regarding performance can only be properly evaluated by individuals familiar with the constantly developing and complex factors of asbestos abatement. Federal and State regulatory personnel can assist in providing reference information.

It is critical to remember that adequate abatement standards and practices exceed current Federal regulation requirements. There should be no reluctance in seeking qualified help to create comprehensive asbestos abatement specifications, set contractor performance standards, and evaluate contractor bid packages.

Three factors should be given equal consideration in selecting an abatement contractor: qualification, capability, and cost.

In some cases, bidders will be equally qualified and capable of completing the abatement project in a timely and safe manner thereby making cost the critical factor.
In other situations, contractor qualification, capability, and cost will vary a great deal. Under these circumstances appropriate consideration should be given to contractor qualification and capability for the specific abatement situation at hand.

Adequate precautions, worker protection, and sophisticated equipment required for responsible and safe abatement activity is expensive. Clients can always find a ‘cheaper’ alternative to a reputable and capable abatement contractor. The real question is whether it is worth the risk to the building users, who might be exposed to airborne asbestos contamination; or to administrators who might bear the ultimate responsibility and liability resulting from an improperly conducted asbestos abatement project.

Involvement in litigation activity to recoup abatement costs requires not only a sincere concern on the part of the building operator towards the hazards associated with exposure to asbestos, but a demonstrable extension of that concern in the documented safe and effective abatement of the asbestos containing material.

The medical, scientific, and legal communities recommend extreme caution in dealing with situations involving the potential exposure of humans to known carcinogens. A recent Federal study stated that actions to reduce human exposure to known carcinogens were to be recognized as ‘prudent public prevention policy’.

To ignore one’s responsibility for the health and safety of others in such circumstances would amount to ignoring the associated medical risks, as well as the eventual liability. Instead of rushing blindly into ill-planned or ill-advised abatement programs, individuals should act responsibly in creating and implementing programs to deal effectively with the problem of asbestos containing materials in buildings.

The U.S. EPA has Asbestos Coordinators at each of the 10 regional offices. Copies of the Guidance Document and information on contacting regional Asbestos Co-ordinators can be obtained by calling 800-424-9065. State contacts can usually be made through the Department of Environmental Protection.